

**BOARD OF ZONING APPEALS
MEETING**

May 27, 2020

The regular monthly meeting of the Oregon Board of Zoning Appeals was called to order in the Oregon Municipal building by Chairman Mike Rowe. Other members present included David Golis, Ron Vuketich, David Andrus and Bill Reed. Also present were Commissioner of Building and Zoning James Gilmore, Inspector Mark P. Kelly and Secretary Lee Scheanwald.

The meeting was called to order at 5:10 p.m.

Mr. Reed moved to accept the May 13, 2020 special meeting minutes as submitted. Seconded by Mr. Vuketich. All members were in favor.

Chairman Rowe informed the applicants they are a Board of five members, and they would need (3) yes votes or more for their waiver to be approved.

The following items were on the agenda:

W-1640-20 Waiver of Ord. 182-2006; Section 1155.01(c) relating to accessory structures. The location is 1322 Towers Road. The applicant/owner is Richard Cutcher.

Chairman Rowe announced that due to the absence of the applicant the Board would proceed with the next waiver.

W-1641-20 Waiver of Ord. 182-2006; Section 1155.04(b)(8) relating to swimming pools/fences. The location is 1675 Grand Bay Drive. The applicant/owner is Jason Kamelesky.

Jason Kamelesky, 1675 Grand Bay Drive, stated essentially, he hired a fence contractor and a pool contractor. The pool and the fence were put in around the same time. At no time did anyone inform him that the code was 48 inches and not 36 inches. They assumed everything was fine until he received a letter in the mail saying they were out of code by 12 inches. At this point to take the fence down would cost them a whole new fence. Also, one side of the fence is actually owned by their neighbor. So, they would have to go to the neighbor, whose fence is 36 inches, and have to take down part of their fence and it would not match the rest of their fence around their yard.

Chairman Rowe stated this has been an issue that has happened more than once in the City where we have fence contractors coming in and there is not a permitting process so, we are stuck in the situation where the homeowner is assuming the contractor is doing the right thing. He asked where we stand with the permitting process for fences, so this is not an issue in the future.

Mr. Gilmore noted that when they put in the pool, they are made aware that they need a four-foot barrier. He stated we are changing the fence code, but we are not adding a permit at this time. He knows the Board wants one, but he does not know if City Council is in favor of something like that. However, that is something they can address in the community meeting when we have it.

Chairman Rowe confirmed that when the pool contractor pulls their permit, they are made aware of the fact that they have a 48-inch barrier that they need to provide to complete their pool permit.

Mr. Gilmore stated that is part of the process.

Chairman Rowe stated the pool contractor pulled the permit and they were responsible to complete the permitting process, to get their final inspections, and obviously there was no final inspection on this pool project because the barrier failed.

Mr. Golis stated he was reading in the zoning code there are a number of different ways you can comply with the barrier for a private swimming pool. One of them is a post and life ring as set out in Lucas County Soil and Water Conservation District guidelines. He asked if they were to install a post and life ring would not that kind of take care of this issue.

Mr. Vuketich replied that he thinks that was for ponds.

Chairman Rowe stated the only way to get around it is a variance request.

Mr. Gilmore stated that section reads very hard and is kind of convoluted. He stated if the Board thinks he is interpreting it incorrectly they can overturn his decision.

Mr. Kelly stated they are trying to clean up the language in that section but believes it is intended for ponds.

Chairman Rowe asked if he was correct in that the four-foot fence is not going away in the modification of the code.

Mr. Gilmore responded that is correct.

Mr. Reed stated it seems like there is a lot of pools in that neighborhood and asked if every pool in that neighborhood was in compliance with the four-foot fence requirement.

Mr. Gilmore replied everyone that we are aware of and we have gone back on some within the last year and made sure they had the four-foot barrier.

Mr. Kamelesky stated there is one pool with a Nationwide walk-on safety cover that has zero fence around it.

Mr. Kelly noted that we are still working on that particular case and we have contacted them, and they are working on putting a fence up around it but with the pandemic they are having a hard time getting the type of fence they want.

Chairman Rowe asked if there were any further questions from the Board or if anyone in the audience wished to speak for or against this matter.

Mr. Vuketich commented he would rather error on the side of safety and a three-foot fence is not going to do it in his book.

Mr. Vuketich made a motion to approve W-1641-20. Seconded by Mr. Reed. Mr. Vuketich, Mr. Reed, Mr. Golis, Mr. Andrus and Chairman Rowe voted no. Variance was denied by a vote of 5-0.

W-1642-20 Waiver of Ord. 182-2006; Section 1155.01(c) relating to accessory structures. The location is 531 Quail East Drive. The applicant/owner is George Rowe.

Sue Rowe, 531 Quail East Drive, stated they bought a cedar gazebo to put on their patio and were told it needed to be 10 feet off the house and they would like to put it about a foot away from the house.

Mr. Gilmore stated that we have submitted this section for modification and the way it reads is that open structures can be right up against the home and if it is a closed structure it can be within three feet with a fire-rated wall.

Mr. Reed asked if he was correct in that it is how it has been submitted but it has not been approved.

Mr. Gilmore answered that is correct.

Chairman Rowe asked if there were any other questions from the Board or if anyone in the audience wished to speak for or against the matter.

Mr. Golis made a motion to approve W-1642-20. Seconded by Mr. Vuketich. Mr. Golis, Mr. Vuketich, Mr. Andrus, Mr. Reed and Chairman Rowe voted yes. Variance was granted by a vote of 5-0.

W-1643-20 Waiver of Ord. 059-2011; Section 1165.04(f) relating to flood plain/accessory structures. The location is 2034 Blanche Drive. The applicant/owner is Randy Ruby.

Mr. Gilmore stated in a flood plain accessory buildings are limited to 600 square feet. He did call ODNR and they said it would be perfectly okay to give a variance of 72 feet in order to put the larger accessory building up.

Chairman Rowe asked what drives the 600 square feet.

Mr. Gilmore replied that it is in our flood plain code, which is approved by ODNR. It is an Ohio Code though and FEMA does not have a limitation like that, which is why we are able to give the variance without getting into trouble with the flood plain insurance program.

Chairman Rowe asked if there was any liability, or risk, from the City's standpoint as far as constructing a certain size structure in a flood plain.

Mr. Gilmore responded no, but there would be if we allowed it without the variance, but this is the proper channel per ODNR.

Mr. Vuketich asked if there were any requirements for flow through flood vents on the building.

Mr. Gilmore answered yes, the anchoring, the floodproofing of materials and the flood gates have to be complied with.

Chairman Rowe asked the applicant if he understood the whole process with ODNR as far as what is going on and what he needs to comply with.

Randy Ruby, 2034 Blanche Drive, replied yes.

Mr. Gilmore noted that the proposed new flood plain maps, which were to be approved in last August and then again in March, show Randy's property out of the flood plain.

Chairman Rowe asked if once those maps are approved this variance would not even be necessary.

Mr. Gilmore responded that is correct and we anticipate those will be approved they have just been delayed.

Joseph Rymsza, 2020 Blanche Drive, asked where the water is going to go from the roof.

Chairman Rowe answered that in regard to the water management, before he would be able to build the garage, he has to get approval from the city engineering department. He will have to submit a site plan and show exactly where the water goes before it gets approved. That is not what this Board is here tonight for. This Board is here tonight for a variance on the size of the structure only, not where the water goes.

Mr. Gilmore said that he will make sure Paul Roman is aware of it.

Chairman Rowe asked if there were any further questions from the Board or if anyone else in the audience wished to speak for or against this matter.

Mr. Vuketich made a motion to approve W-1643-20. Seconded by Mr. Andrus. Mr. Vuketich, Mr. Andrus, Mr. Golis, Mr. Reed and Chairman Rowe voted yes. Variance was granted by a vote of 5-0.

Chairman Rowe asked if Richard Cutcher was there and noting that he was not stated case W-1640-20 would be pushed to next month.

With no further business the meeting adjourned at 5:34 p.m.

Lee Scheanwald,
Secretary